

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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SAM NELIS,

Plaintiff,

v.

Case No. 06-C-1220

WARDEN PHIL KINGSTON,

Defendant.

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**ORDER**

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Plaintiff has filed a motion for leave to file an amended complaint in the above matter. The only amendment plaintiff seeks is to add the first name of one of the parties named as a defendant in his original complaint. He states that he has now discovered the first name of Defendant Clements. The first name is "Marc".

Although plaintiff has not attached to his motion a proposed amended complaint as required under the local rules, *see* Civil L.R. 15.1, I conclude that the motion should be granted. Furthermore, since the change is such a minor one, the plaintiff need not file a new amended complaint. Instead, the clerk is instructed to simply add Clements' first name to the caption of the original complaint.

Plaintiff has also filed a motion to compel discovery, requesting that Waupun Correctional Institution be ordered to provide the Marshals' office with a forwarding address for Mr. Clements so that he can be properly served. This motion will be denied. The motion to compel is premature,

since no discovery demand has yet been made to the opposing party. Furthermore, Waupun Correctional Institution is not a party to the proceeding. In any event, the motion is moot because the Assistant Attorney General representing other defendants has advised the court and plaintiff by letter that Clements is currently employed as the Deputy Warden at Columbia Correctional Institution, 2925 Columbia Drive, Portage, Wisconsin, 53901. Plaintiff therefore has sufficient information to effectuate service through the U.S. Marshals' office.

**IT IS THEREFORE ORDERED** that plaintiff's motion to amend is **GRANTED** and the clerk shall note in the original complaint that Defendant Clement's first name is "Marc".

**IT IS FURTHER ORDERED** that plaintiff's motion to compel is **DENIED**. However, a copy of this order will be provided to the U.S. Marshal so that service can be effected on Defendant Marc Clements at Columbia Correctional Institution where he is currently employed.

Dated this 29th day of January, 2007.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge